



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,117	02/19/1999	JOZSEF KIRALY	ASCI-006	5244

7590 06/18/2002

WAGNER MURABITO & HAO
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

EXAMINER

BROWN, RUEBEN M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 06/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/253,117

Applicant(s)
Kiraly

Examiner
Reuben Brown

Art Unit
2611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 18, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2611

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/18/2002 have been fully considered but they are not persuasive. Applicant argues several points on page 3, which are irrelevant to the rejection of the previous Office Action, or are directed to subject matter not presently in the claims. First of all, applicant argues that, "unlike Ice, the method of communicating broadcast information of Independent claim 1 does not impose limits on the communication connections between client devices in the network, etc." This point is not relevant, since the claim calls for a first user device to communicate broadcast information to a third user device, such that the first user device receives the broadcast information from a server and all connections are made through the Internet. Indeed in Ice, server A transmits a first data stream to a first level of client devices, such as C1 & C2, which then subsequently transmits the received stream of data to the next level of clients, such as C3-C6, col. 2, lines 8-36. Moreover, in Ice all connections are made over the Internet, col. 1, lines 5-9 & col. 2, lines 48-51.

Next, applicant argues that in claim 1, it is not necessary for the client in a particular level to communicate broadcast information with another client that is in an immediate level above or below, as is required in Ice. Again examiner points that this constraint is outside of the subject

Art Unit: 2611

matter recited in the claims. However, it is clear that claim 1 requires a first user device to transmit broadcast information to a third user device, which means that the broadcast information received by the third user device is not received directly from a server. This arrangement is consistent with the disclosure of Ice.

Furthermore, applicant asserts that in claim 1, “a client at any level can communicate information with another client **or the server**”, emphasis added. Examiner respectfully disagrees, since there is no feature recited in claim 1 that for instance discusses the third user device optionally receiving the broadcast information from the server.

Finally in the third paragraph of page 3, applicant introduces a scenario that is wholly beyond the scope of subject matter recited in claim 1. In particular, applicant states that, “*in the case where a first client device stops forwarding* the broadcast information to a second client, the method of Independent claim 1 responds to this case by establishing a communication connection between the second client device and either another client device or the server which forwards the information”. Clearly, applicant is referring to a system-wide reliability algorithm, such as one that reroutes data transmissions from a failed node, though a working node. In the first instance, no such algorithm is recited in the claims. Secondly, at the time the invention was made, such a Fault Tolerant algorithm was very well known in the art, and for instance is disclosed by, Goldszmidt (Abstract; col. 6, lines 7-30 & col. 7, lines 1-22) and Sees, (Abstract).

Art Unit: 2611

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-44 are rejected under 35 U.S.C. 103(a) as being obvious over Ice, (U.S. Pat # 5,884,0331), in view of Ishida, (U.S. Pat # 6,122,259).

Considering claims 1, 8, 15, 24 & 35, Ice discloses an information transfer systems and methods for **broadcasting** files to a plurality of receiving destinations comprising the steps of: causing a transmitting communication Server A to transmit a first stream of data representing digital broadcast information to relaying client system C1 & C2, wherein server A and clients C1 & C2 may be coupled to the Internet, (Abstract; col. 1, lines 25-45; col. 2, lines 15-50). Ice furthermore causes client devices C1 & C2, to relay broadcast information the next level of client systems, such as C3-C6 see Fig. 1 & col. 3, lines 11-28.

Art Unit: 2611

With respect to the amended claimed feature of receiving and rendering the broadcast information in a first user device as well as the second or third user device to which the first user device transmits or relays the instant broadcast information, this feature reads on the operation of Ice, col. 3, lines 62-67. However, Ice does not explicitly teach the additionally claimed feature of receiving and rendering, concurrently the broadcast information on the first, second and third user devices. Nevertheless, one of ordinary skill in the art at the time the invention was made, would have been motivated to construct a system with as little delay as possible, thereby enable concurrent reception and display of information among all of the participating clients, since in fact all of the clients are receiving the same information. If the clients at the end of the relay (intermediate or last levels) receive their information with a significant delay, such an arrangement would represent a undesirable quality of service value for the instant clients, especially for live or real-time events. In fact, Ice suggests the desirability for limiting the amount of delay to clients at the end of the relay, by disclosing a predetermined number of relay levels and amount of clients on the last row to be tabulated, depending upon the amount of client devices in the first row of the network, see col. 2, lines 25-29; col. 3, lines 62-67; col. 4, lines 10-35 & Fig. 5.

Ishida discloses a system wherein video information is **simultaneously multicast** to all of the user data terminals in the system. It is specifically taught that each of the multipoint conference devices receives multicast data such as audio & video, and **displays the data on the**

Art Unit: 2611

monitor, while relaying it to the subsequent terminal, col. 4, lines 21-27, which reads on the claimed feature. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Ice with the teachings of Ishida providing simultaneous reception and display of audio/video data to all the terminals in a network using a relay algorithm, at least for the desirable advantage of supporting real-time communication or events, which is the purpose of Ishida.

Examiner notes that Ishida is specifically disclosed within an ISDN environment, whereas the present invention is directed to the Internet. However, as discussed above, Ice discloses that the invention operates over the Internet. Moreover, at the time the invention was made, it was known in the art that ISDN channels are enabled to support IP, i.e Internet Protocol, which is utilized in Ice, thus the two references are compatible.

As for claim 8, in Ice the first group of user devices reads on C1 & C2, the second group of user devices reads on C3-C6.

As for claim 35, the instant claim includes the limitation that the server is configured by a transmission scheduler to communicate the digital streams to the first & second devices and that the scheduler maintains communication links between the sever and first, second & third user devices. Accordingly, examiner points out that Ice discloses that when the Server A receives a

Art Unit: 2611

request from a client not in first level of clients, such as C3, the server A sends the instant client an instruction to connect to a particular other client such as client C1. Moreover C1 is instructed to transmit information to which additional clients.

Considering claims 2-4, 16-19, 27-30 & 37-40, Ice teaches a system and a method of transferring, communicating and **broadcasting** “files”, but does not disclose the specific types or content of the files. Nevertheless, at the time the invention was made, transferring and broadcasting radio, audio, visual television and computer program files over a communications network was very well known in the art. Ishida teaches the multicasting of audio & video data, col. 3, lines 35-40 & col. 4, lines 21-23. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ice to broadcast radio, audio, visual, television and computer files so that a user may access audio/video and program data in order to have a fully interactive entertainment system.

Considering claims 5, 11, 20, 31 & 41, Ice reveals client relaying communication devices C1 & C2, wherein the systems are capable of receiving files and further relaying and communicating broadcast files to a plurality of other users (Fig. 1). Ice furthermore teaches that for instance client device C3, will receive broadcast information from C2, in the event that its

Art Unit: 2611

original provider, C1, becomes inactive, see col. 2, lines 18-21, which reads on the claimed subject matter.

Considering claims 6-7, 21-23, 32-34 & 42-44, Ice teaches that client device C2, which is comparable to device C1, relays the broadcast information to further clients devices, in the same manner as C1.

Considering claim 9, Ice teaches direct communication links between the first group of electronic devices and the second group of electronic devices (claims 1 and 2).

Considering claim 10, Ice teaches that the server A includes a database 22 holding a list of all clients presently connected to the network, col. 2, lines 45-55. This disclosure suggests that the system tracks in real-time the connection status of clients, thereby reading on periodically updating the status of the devices.

Considering claim 12, Ice teaches terminating direct communications links with terminals that disconnect from the server, i.e. become inactive, see col. 3, lines 44-50.

Art Unit: 2611

Considering claim 13, Ice discloses a first and second set of electronic devices each comprising a computer system configured for receiving and relaying broadcast information (Fig. 1).

Considering claim 14, Ice is directed to operating over the Internet.

Considering claims 25-26 & 36, in Ice each user device which seeks to receive information, connects with server A over the Internet. Server A then instructs which clients to connect with the other client and subsequently relay information. Ice also discloses maintaining a log of clients on the system, see col. 2, lines 45-54.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Goldszmidt, Sees Teaches fault tolerant systems

B) McGee, Zigmond Teach the transmission of Internet data over an ISDN network. See McGee, (col. 1, lines 47-51) and Zigmond, (col. 4, lines 39-43 & col. 5, lines 57-60).

Art Unit: 2611

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2611

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:


(703) 872-9314, (for formal communications; please mark "EXPEDITED
PROCEDURE", for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner
should be directed to Reuben Brown whose telephone number is (703) 305-2399. The examiner
can normally be reached on M-Th from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,
Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Group receptionist whose telephone number is (703) 305-4700.


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600